



August 20, 2026

[REDACTED]

RE: [REDACTED] v. WV DoHS
ACTION NO.: 26-BOR-2324

Dear Ms. [REDACTED]

Enclosed is a copy of the decision resulting from the hearing held in the above-referenced matter.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Human Services. These same laws and regulations are used in all cases to ensure that all people are treated alike.

You will find attached an explanation of possible actions you may take if you disagree with the decision reached in this matter.

Sincerely,

Pamela L. Hinzman
State Hearing Officer
Member, State Board of Review

Encl: Recourse to Hearing Decision
Form IG-BR-29

cc: Heather Stewart-Tichnell, WV DoHS

**WEST VIRGINIA OFFICE OF INSPECTOR GENERAL
BOARD OF REVIEW**

[REDACTED]

Appellant,

v.

Action Number: 26-BOR-2324

**WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES
BUREAU FOR FAMILY ASSISTANCE,**

Respondent.

DECISION OF STATE HEARING OFFICER

INTRODUCTION

This is the decision of the State Hearing Officer resulting from a fair hearing for [REDACTED]. This hearing was held in accordance with the provisions found in Chapter 700 of the West Virginia Office of Inspector General Common Chapters Manual. This fair hearing was convened on August 11, 2026.

The matter before the Hearing Officer arises from the Respondent's termination of Child Care Subsidy Program benefits in July 2026.

At the hearing, the Respondent was represented by Heather Stewart-Tichnell, Child Care Subsidy Supervisor, WV DoHS. The Appellant was self-represented. Appearing as a witness for the Appellant was [REDACTED], the Appellant's mother.

All witnesses were placed under oath, and the following documents were admitted into evidence.

Department's Exhibits:

- D-1 Child Care Subsidy Policy and Procedures Manual Chapters 5.2.1.3 and 6.1.2
- D-2 Appellant's pay stubs from [REDACTED] and [REDACTED]
- D-3 Income Calculator form
- D-4 Electronic mail transmissions between Heather Stewart-Tichnell and Appellant, and Heather Stewart-Tichnell, Kevin McIlwain, and Crystal Kyle
- D-5 Child Care Parent Notification Letter Notice dated July 20, 2026, and State Median Income Guidelines Chart

Appellant's Exhibits:

- A-1 Child Care Parent Notification Letter Notice dated July 20, 2026
- A-2 Electronic mail transmission between Heather Stewart-Tichnell and Crystal Kyle
- A-3 Child Care Subsidy Policy and Procedures Manual Chapter 5.2.1.1
- A-4 Child Care Subsidy Policy and Procedures Manual Chapter 5.2.5.22
- A-5 Child Care Subsidy Policy and Procedures Manual Chapter 5.2.1.3
- A-6 Appellant's Fair Hearing Request Form submitted on July 17, 2026
- A-7 Letter from [REDACTED], dated July 20, 2026
- A-8 Electronic mail transmission from Crystal Kyle to Appellant
- A-9 Income Calculator form
- A-10 Pay stub from [REDACTED] dated June 26, 2026
- A-11 Letter from [REDACTED] dated July 6, 2026
- A-12 Income Calculator form
- A-13 Income Calculator form
- A-14 Pay stub from [REDACTED] dated July 3, 2026
- A-15 Child Care Subsidy Policy and Procedures Manual Chapter 11.3
- A-16 Appellant's Fair Hearing Request Form submitted on July 17, 2026 (duplicate)
- A-17 Client Contact Report (Page 1 of 4)
- A-18 Client Contact Report (Page 2 of 4)
- A-19 Case management notes dated July 17, 2026
- A-20 Electronic mail transmissions between Heather Stewart-Tichnell, Crystal Kyle, and Kevin McIlwain
- A-21 Electronic mail transmission between Deidre Craythorne and [REDACTED]
- A-22 Pay stub from [REDACTED], Inc., dated June 19, 2026
- A-23 Pay stub from [REDACTED]s, Inc., dated June 26, 2026
- A-24 Pay stub from [REDACTED], Inc., dated July 3, 2026
- A-25 Pay stub from [REDACTED] dated July 10, 2026
- A-26 Electronic mail transmission between Heather Stewart-Tichnell and Appellant
- A-27 Child Care Program State Median Income Guidelines Chart (effective 2024)
- A-28 Appellant's written statement- Proof of Untaxed Travel Reimbursement and Per Diem
- A-29 Appellant's written Hearing Statement

After a review of the record, including testimony, exhibits, and stipulations admitted into evidence at the hearing, and after assessing the credibility of all witnesses and weighing the evidence in consideration of the same, the Hearing Officer sets forth the following Findings of Fact.

FINDINGS OF FACT

- 1) The Appellant is a recipient of benefits under the Respondent's Child Care Subsidy Program.
- 2) The Appellant's Child Care case was due for an annual status check in July 2026.

- 3) During the status check, the Respondent determined that the Appellant's gross monthly income exceeded the income limit of \$5,394 for a family of three (Exhibits D-5 and A-27).
- 4) The Respondent first determined that the Appellant's gross monthly income was excessive (\$5,429.90) for the Child Care Program by averaging her pay stubs from [REDACTED] (Exhibits D-2, A-10, A-22, A-23, A-24, and A-25).
- 5) The Appellant had a zero-income week from each employer for the considered pay period and the Appellant reported that her work schedule varies with both employers (Exhibit D-2).
- 6) The Appellant works part-time at [REDACTED] and performs work on an "as needed" contract basis for [REDACTED] (Exhibit A-29).
- 7) The Respondent ultimately calculated that the Appellant's income was excessive (\$5,485.58) using year-to-date totals on her pay stubs and averaging her income over a six-month period (Exhibits D-4 and A-26).
- 8) The Respondent terminated the Appellant's Child Care benefits effective July 17, 2026.
- 9) On July 20, 2026, the Respondent sent the Appellant a Child Care Parent Notification Letter Notice informing her that her Child Care benefits had been terminated based on excessive income (Exhibits D-5 and A-1).
- 10) The Appellant reapplied for Child Care assistance on July 20, 2026, and was approved for benefits after the Respondent used new pay stubs to calculate her monthly income.
- 11) The Appellant missed no Child Care payments between the benefit termination and reapproval dates. Therefore, there is no issue of reimbursement for consideration.
- 12) The Appellant is contesting the calculation of income that led to her Child Care benefit termination effective July 17, 2026, contending that the Respondent incorrectly counted her untaxed travel and per diem reimbursements as earned income and improperly used out-of-range pay stubs that included untaxed reimbursements (Exhibit A-29).
- 13) Information from [REDACTED], confirms that the reimbursement amounts listed on the Appellant's pay stubs, including travel reimbursement and per diem, are untaxed (Exhibit A-7).
- 14) The Appellant's pay stubs from [REDACTED] list travel reimbursements and per diem under the "Pay" section, but do not list these items as taxable under the "Taxes" section (Exhibits D-2, A-14, A-22, A-23, and A-24).

- 15) The Appellant is also contesting the Respondent's failure to provide her with a pre-hearing conference with Deidre Craythorne, the supervising decision-maker in her case (Exhibit A-29).

APPLICABLE POLICY

Child Care Subsidy Policy and Procedures Manual Chapters 5.2 and 5.3:

5.2. Monthly Gross Income.

Monthly gross income is the total amount of money, prior to deductions, received or earned monthly by the members of the family. Income received on other than a monthly basis must be converted to a monthly income.

5.2.1. Employment Income Considered in Determining Eligibility.

5.2.1.1. Countable Employment Income. The amount considered as income is earnings before deductions are made for taxes, bonds, pensions, union dues or any similar type of deductions. Total money earnings received for work performed as an employee including:

- A. Wages.
- B. Salary.
- C. Commissions.
- D. Tips.
- E. Piece rate payment, and
- F. Cash bonuses.
- G. Mileage/travel reimbursements IF it is counted as taxable income (a fringe benefit) by the IRS.

1. Countable income: Mileage and travel reimbursements that exceed the IRS's per diem rates are considered fringe benefits. Taxes are calculated and withheld from the reimbursement. This will be evident from the paystub.

2. Mileage and travel reimbursements that do not exceed the IRS's per diem rates are not counted when calculating MGI.

5.2.1.2. Methods of Verification:

Employment income must be verified by the client by submitting one of the following:

- A. One month's worth of check stubs, OR
- B. The New Employment Verification Form (ECE-CC-1B) in the case of new employment situations in which the applicant has not yet received pay.
 - 1. Clients using the ECE-CC-1B to verify employment must submit one month's worth of check stubs to the agency as soon as they are received.
 - 2. Failure to supply follow-up check stubs will result in case closure.

5.2.1.3. Reviewing Check Stubs.

A. CCR&R case managers should review check stubs carefully to ensure that the client is accurately reporting their income.

- 1) Case managers should compare current payment amounts to year-to-date amounts and review carefully for discrepancies.
- 2) The case manager should also review the check for overtime payments, bonuses, incentive payments, tips, and commission that may only be earned intermittently. These items will show up in the year-to-date portion of the check stub even if the client shows no earnings in those categories for the current pay period. If the client shows earnings in those categories, the case manager should follow the steps outlined in Section 5.3.2, as appropriate, to calculate an accurate average monthly income.

B. Paystubs should be no more than 45 days old. Consecutive paystubs are preferred; however, it is acceptable for the case manager to calculate the amount of a missing paystub using the year-to-date amounts listed on the paystub immediately preceding and the paystub immediately following the missing paystub. Case managers using this method to calculate income should clearly explain steps taken in case contacts.

5.2.5 Income Not Considered in Determining Eligibility.

The following sources of income should be excluded (not counted) in computing the amount of a family's monthly gross income:

5.2.5.22. Untaxed mileage or meal reimbursements

5.3.2. Irregular Income.

The CCR&R case manager shall convert irregular income, or income amounts that vary from pay day to pay day, to monthly amounts by:

5.3.2.2. Averaging the amount of the irregular income received in the past to arrive at a monthly amount which can be anticipated in the future. The case manager will generally average the monthly gross income received in the previous three months. However, if an applicant/recipient experiences or has experienced a recent substantial decrease or increase in his/her regular income, the case manager will take this into consideration to estimate the income the applicant/recipient can reasonably expect to receive in the future.

5.3.2.4. In situations where an applicant or member of the family has recently experienced a temporary disruption (less than 90 days) of income due to a strike, job loss, cut back in number of hours to be worked or other factors, the CCR&R case manager shall consider as income that amount that the client can reasonably

anticipate receiving during the next month. Monthly reporting by the client of income received should be requested until the temporary disruption is ended.

A memorandum to Child Care Resource & Referral Agencies dated May 1, 2024, states that Child Care income eligibility beginning May 1, 2024, is based on the 2024 State Median Income Chart. The State Median Income Chart shows the income limit for a family of three as \$5,394 (85% of monthly median income). These income limits are listed in Section 2.2.4 of the Child Care and Development Fund Plan for the State of West Virginia for Fiscal Years 2025 through 2027.

West Virginia Office of Inspector General Common Chapters Manual Section 710.15 addresses pre-hearing rights, including pre-hearing conferences:

A. Pre-hearing Conference — Any applicant or recipient requesting a hearing shall be advised, in writing, of his or her right to have a pre-hearing conference with an employee of the Department who was involved in the decision-making process on the applicant's or recipient's case or the supervisor of said employee. Pre-hearing conferences are encouraged in all cases. At no time shall the applicant or recipient be discouraged from pursuing his or her right to a fair hearing.

DISCUSSION

Policy states that the amount considered as income for the Child Care Program is earnings before deductions are made for taxes, bonds, pensions, union dues or any similar type of deductions. Mileage and travel reimbursements that do not exceed the IRS's per diem rates are not counted when calculating countable income. The Child Care case manager shall convert irregular income, or income amounts that vary from pay day to pay day, to monthly amounts by averaging the amount of the irregular income received in the past to arrive at a monthly amount which can be anticipated in the future. Any applicant or recipient requesting a hearing shall be advised of his or her right to have a pre-hearing conference with an employee of the Department who was involved in the decision-making process on the applicant's or recipient's case or the supervisor of said employee.

Child Care Subsidy Supervisor Heather Stewart-Tichnell testified that the Respondent did not use the Appellant's zero-income checks in calculating income because she (Ms. Stewart-Tichnell) was instructed to use year-to-date totals to arrive at a better income average. Ms. Stewart-Tichnell testified that she used the year-to-date total on the Appellant's July 3, 2026, pay stub for [REDACTED] and divided total gross pay over six months to obtain an average monthly income. To calculate the [REDACTED], Ms. Stewart-Tichnell used the year-to-date total on the July 10, 2026, pay stub and divided by six months to obtain an average gross monthly income. Ms. Stewart-Tichnell stated that the Respondent was unable to deduct per diem and travel reimbursements from the Appellant's [REDACTED] income because of the way the pay stub was categorized. She indicated that such reimbursements are typically listed as deductions on pay stubs and the "Deductions" section of the Appellant's [REDACTED] pay stubs was blank. The Respondent provided no information to indicate that per diem/reimbursements listed on the [REDACTED] pay stubs exceed IRS per diem rates.

The Appellant and her mother, [REDACTED], disputed the Respondent's counting of untaxable reimbursements as countable income. In addition, the Appellant testified that she requested a pre-hearing conference with Deidre Craythorne, the supervisor who made the ultimate decision on the income issue; however, Ms. Craythorne did not contact her. The Appellant contended that while she spoke with other Child Care staff, she was denied the opportunity to have a pre-hearing conference with the decision-maker in her case.

As per policy, the Respondent is permitted to project income by averaging past earnings when an individual receives irregular income. However, the Respondent incorrectly considered the Appellant's untaxed per diem and travel reimbursement as part of her countable income. The Respondent calculated monthly average income by using the year-to-date total on the [REDACTED] pay stub for July 3, 2026, (pay period ending June 27, 2026) of \$26,321.04. After subtracting the year-to-date per diem of \$3,970.17 and the year-to-date travel reimbursements of \$6,571.32, the Appellant's countable average income should have been \$15,779.55 divided by 6 months = \$2,629.93 per month. The Respondent used the Appellant's year-to-date income from her July 10, 2026, [REDACTED] pay stub (pay period ending July 4, 2026): \$6,592.45 (year-to-date total) divided by 6 months = \$1,098.74 per month. Therefore, The Appellant's gross monthly income should have been calculated as \$2,629.93 + \$1,098.74 = \$3,728.67 (total countable monthly income) and the Respondent incorrectly terminated the Appellant's Child Care benefits effective July 17, 2026.

While the Appellant spoke with other Child Care staff members concerning the income calculation in her case, she was not provided an opportunity to speak specifically with supervisor Deidre Craythorne who made the ultimate decision concerning countable income. Ms. Craythorne was not present for the fair hearing and it is unclear why she did not contact the Appellant to address the issue; however, the Appellant's concerns regarding the pre-hearing process are noted. It should be noted that any information that may have been discussed during a pre-hearing conference would have no impact on a Board of Review decision since the decision of the State Hearing Officer is limited to information provided during the evidentiary hearing.

CONCLUSIONS OF LAW

- 1) The gross monthly income limit for Child Care assistance for a family of three is \$5,394.
- 2) The Respondent incorrectly included untaxed per diem and travel reimbursements in the Appellant's total countable income.
- 3) The Appellant's countable gross income at the time of her July 2026 status check was \$3,728.67.
- 4) The Respondent's decision to terminate the Appellant's Child Care benefits effective July 17, 2026 was incorrect.

DECISION

It is the decision of the State Hearing Officer to **REVERSE** the Respondent's action to terminate the Appellant's Child Care benefits.

ENTERED this 20th day of August 2026.

**Pamela L. Hinzman
State Hearing Officer**